



DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of an Existing Mandatory Safety Standard

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice includes the summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit your comments including the docket number of the petition by any of the following methods:

1. Electronic Mail: zzMSHA-comments@dol.gov. Include the docket number of the petition in the subject line of the message.
2. Facsimile: 202-693-9441.
3. Regular Mail or Hand Delivery: MSHA, Office of Standards, Regulations, and

Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452,

Attention: Jessica D. Senk, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401.

Individuals may inspect copies of the petition and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Jessica D. Senk, Office of Standards, Regulations, and Variances at 202-693-9440 (voice), Senk.Jessica@dol.gov (email), or 202-693-9441 (facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M-2021-025-C

Petitioner: Wolf Run Mining Company 21550 Barbour County Highway, Philippi, West Virginia (Zip 26416).

Mine: Leer South Mine, MSHA ID No. 46-04168, located in Barbour County, West Virginia.

Regulation Affected: 30 CFR 75.1904(b)(6) (Underground diesel fuel tanks and safety cans).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of Brookville locomotive diesel motor in a dual role as a motor/diesel fuel transportation unit. The petitioner proposes an alternative method of complying with the requirement for a shut-

off valve in the locomotive motor's fuel return line (a connection between the engine and fuel tank through which fuel flows when the engine is running).

The petitioner states that the return line is unrelated to fuel dispensing, and that therefore a shutoff valve on this line is not necessary. Using a shutoff valve on the return line could cause engine damage and an over-fueling condition, due to the fuel not being able to return to the locomotive's fuel tank. This over-fueling condition would increase harmful exhaust emissions such as carbon monoxide, and would therefore create a health risk to locomotive operators and miners in the affected area.

The petitioner proposes the following alternative method:

- (a) The Brookville diesel motor has been equipped with a fuel tank constructed of ¼ inch steel plates that is designed to serve as both the motor's fuel tank and fuel dispensing tank. The tank is equipped with a pump that can only dispense 50 percent of the tank's capacity, in order to ensure that the motor's fuel supply cannot be completely depleted.
- (b) During the fueling process, the motor's engine will be shut off, which eliminates unnecessary idling. The 8-gallons per minute fuel dispensing pump will operate utilizing a separate battery power source that has been added to the motor.
- (c) The fuel dispensing hose is a 50-foot hose with a no latch open device and a self-closing valve. A power supply switch is located at the pump's nozzle storage bracket, and an emergency shut-off switch is located above the fuel tank. The emergency switch is protected by a cover, so that the switch is in the off position anytime the cover is closed.
- (d) The following fueling procedures have been developed and posted above the fuel tank.
 - Make sure fueling sign is hung.
 - Inspect fire extinguishers prior to beginning the fueling process.
 - Ensure fire extinguishers are located out-by the fueling point.
 - Verify fuel hose, equipment, etc. are in good working condition.
 - Test for methane in the atmosphere.

- Check for potential ignition sources and other hazards in the area.
- Notify the mine dispatcher before starting.
- Unlock and open the emergency switch.
- Check for any spills after the fueling is complete.
- Shut off the emergency switch and close locked cover.
- Notify the mine dispatcher after completion.

(e) The tank is equipped with a 4 inch vent designed to open at a pressure not to exceed 2.5 pounds per square inch, as required by 75.1904(b).

(f) Tank openings are marked and the tank, fittings and components are pressure-tested.

(g) The pump dispensing line is equipped with a manual shut off valve that serves as anti-siphoning device as required under 75.1905(b)(iii).

(h) Additional fire suppression and detection are installed to ensure that the system meets all the requirements of 75.1911(b).

(i) At no time, the motor will be operated unattended, in accordance with 75.1916(e).

(j) Within 60 days after the Proposed Decision and Order (PDO) becomes final, the petitioner will submit proposed revisions for its approved part 48 training plan to the DM. The proposed revisions will include initial and refresher training regarding compliance with the terms and conditions of the PDO.

The petitioner asserts that the alternate method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Jessica D. Senk,

Director,

Office of Standards, Regulations, and Variances.